

THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 13, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, September 13, 2018, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Doug Hudson, Mr. Keller Hopkins, Ms. Holly Wingate, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mr. Jamie Whitehouse – Planning & Zoning Manager, and Ms. Jennifer Norwood – Planner I.

Motion by Mr. Hopkins, seconded by Ms. Wingate, and carried unanimously to approve the Agenda as posted. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for July 26, 2018 and August 9, 2018 as corrected. Motion carried 5-0.

OLD BUSINESS

2018-8 Stream's Edge Estates – TBD, LLC c/o Michael Daniels

A cluster subdivision to divide 20.42 acres+/- into 42 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the east side of Robinsonville Road. approximately 264 ft. southeast of Kendale Road. Tax Parcels: 234-6.00-90.00 and 234-6.00-90.01. Zoning District. AR-1 (Agricultural Residential Zoning District).

The Planning Commission discussed the application which has been deferred since July 26, 2018.

Motion by Ms. Stevenson, seconded by Mr. Hudson to close the record.

Ms. Stevenson moved that the Commission deny preliminary approval of Subdivision 2018-8 for the development known as “Stream’s Edge” upon the record and for the following reasons:

1. This is an application for 42 lots designed as a cluster subdivision on approximately 20 acres of land that is zoned AR-1.
2. The site includes approximately 5.6 acres of land formerly utilized for lumber treatment. This is approximately one quarter of the entire Stream’s Edge site. Within this acreage are several identified “hot spots” containing hexavalent chromium, arsenic and thallium at concentrations greater than state standards. According to information supplied by the applicant, these pose “Unacceptable Risk Exposure Scenarios” for residential uses, outdoor workers and recreation.
3. The proposed remedy for these soils includes removing the soils from the various “hot spots” on the site and relocating them to proposed “open space” areas within the development where they would be capped, with limitations on the use of the open space.

4. There appear to be inconsistencies in the volume of the contaminated soils that need to be removed. One report identifies 396 cubic yards of material, while another identifies 1,027 cubic yards of material that must be removed.
5. According to the applicant's own report, the relocation of these contaminated soils "will not alter the volume or toxicity of the substances of environmental concern". The applicant does not propose removing or even reducing the volume of the contaminated soils on the site. It is not appropriate to allow these toxic substances to remain within the proposed subdivision.
6. The applicant's own report, as approved by the Department of Natural Resources, concludes that "The cap would preclude casual contact or ingestion of soils by site occupants or trespassers/recreators, but would not necessarily be appropriate in a residential setting, due to the requirements for maintenance and necessary restrictions regarding excavations in the capped area". This description makes these areas, even when capped, incompatible with the proposed residential development. The applicant has proposed classifying the area as "open space" for the residential development, despite the stated concerns about these areas being incompatible with residential uses.
7. In response to questioning from the Commission, the applicant's representatives stated that Delaware landfills will not accept the contaminated materials. If the State's landfills will not take these materials, it is not appropriate for them to remain within this subdivision as a potential future hazard to the residents there.
8. Section 99-16 of the Sussex County Subdivision Code states that land unsuitable for development because of features "which will be reasonably harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision...shall not be subdivided or developed" unless adequate methods are formulated and approved to solve the problems created by the conditions. Here, the contaminated soils are dangerous to residential and recreational use, and the proposal to keep them contained within open space in this 20-acre development is not a reasonable solution that will protect the future inhabitants throughout the future.
9. I am not satisfied that the items contained in Section 99-9C of the Subdivision Code have been adequately addressed. With the contaminated soils, the proposed subdivision cannot be integrated into the existing terrain and surrounding landscape (99-9C(1)); the relocation of the contaminated soils requires extensive soil removal and grade changes (99-9C(5)); the objectionable feature of the contaminated soils is not screened from the lots within the subdivision (99-9C(6)); and the existence of the contaminated soils will have an adverse effect upon lots within the proposed development (99-9C(12)).
10. In conclusion, I am not satisfied that the contaminated soils have been suitably addressed by the applicant so that future residents would be completely protected from any future adverse effects of them remaining within the subdivision.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously deny this application for the reasons stated. Motion carried 5-0.

2018-9 Oak Landing – NCSW, LP

An Environmentally Sensitive Developing District Overlay Zone subdivision to divide 59.82 acres +/- into 163 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the northeast side Oak Orchard Road and approximately 1.3 miles southeast of John J. Williams Highway Tax Parcel: 234-34.00-97.00. Zoning District. GR (General Residential Zoning District).

The Planning Commission discussed the application which has been deferred since July 26, 2018.

Ms. Stevenson moved that the Commission grant preliminary approval for Subdivision 2018-9 for Oak Landing for NCSW, L.P. based upon the record made during the public hearing and for the following reasons:

1. This application is for property that previously received approval for 196 lots. That approval expired, and this new application seeks approval for 163 lots.
2. The project is located in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan Update.
3. The project is on land zoned GR General Residential which provides for medium density residential use with a permitted density of up to 4 units per acre.
4. The Applicant has proposed 163 lots within the project, which is less than the allowable density for a GR Subdivision on this land.
5. The project will be a restricted residential development and is consistent with existing neighboring and adjacent properties in the Oak Orchard area and will not have an adverse impact on the neighboring properties or community.
6. The project will be served by County Sewer. Central water will be provided by Tidewater Utilities, Inc.
7. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it promotes the orderly growth of the County. The project is also in compliance with Section 99-9C of the Subdivision Ordinance.
8. Open space is being preserved, which buffers and protects Emily's Gut and adjoining wetlands. In addition, there are increased perimeter buffers over the previously approved subdivision on this parcel.
9. This approval is subject to the following conditions:
 - A. There shall be no more than 163 lots within the Subdivision.
 - B. The Applicant shall form a homeowner's association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
 - C. The stormwater management system and erosion and sedimentation control measures shall meet or exceed the requirements of the State and County and shall maximize groundwater recharge.
 - D. All entrances shall comply with all of DelDOT's requirements.
 - E. Sidewalks shall be provided on both sides of all streets.
 - F. No wetlands shall be included within any lot lines.

- G. The development shall be served by Sussex County Sewer in accordance with Sussex County Engineering Department specifications and regulations.
- H. The development shall be served by central water.
- I. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management area and erosion and sedimentation control facilities.
- J. A minimum 50-foot buffer shall be provided between the State Wetlands associated with Emily's Gut and any lot lines.
- K. The recreational amenities shall be completed prior to issuance of the 80th residential building permit. The recreational amenities shall include a pool, pool house/clubhouse and playground.
- L. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
- M. No construction activities shall occur on the site between 6:00 p.m. and 8:00 a.m. on the weekdays and after 2:00 p.m. on Saturdays. No construction activities shall occur on Sundays.
- N. A six-foot board-on-board fence shall be installed along the entire shared property boundary this property and lands of Charles Clark. This fence shall not extend into the wetlands area. This fence shall be installed prior to the issuance of the first certificate of occupancy.
- O. The Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval been depicted or note on it.
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to grant Preliminary approval for the reasons stated. Motion carried 5-0.

2018-10 Overbrook Meadows – Overbrook Acres, LLC

A cluster/Environmentally Sensitive Developing District Overlay Zone subdivision to divide 64.2 acres+/- into 135 single family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the northeast side of Coastal Hwy. (Rt. 1) across from Cave Neck Rd. Tax Parcel: 235-23.00-1.00. Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since July 26, 2018.

Mr. Hudson moved that the Commission grant preliminary approval for Subdivision for 2018-10 for Overbrook Meadows-Overbrook Acres, LLC based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a subdivision within the Environmentally Sensitive Developing Area and the AR-1 Zoning District. The Applicant is seeking clustered lots

with a minimum area of 7,500 square feet.

2. The proposed subdivision will have 135 lots on approximately 64.2 acres. This results in a density that is within the permitted density in the AR-1 Zone for a project within the Environmentally Sensitive Developing Area.
3. The proposed AR-1 subdivision is consistent with nearby uses in the area, which include residential developments, smaller commercial and business uses and farmland.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. The project will be served by central water and sewer.
6. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
7. There are no State or Federal wetlands located on the site.
8. There will be active recreational amenities within the project, including a clubhouse and pool.
9. The development will comply with all DelDOT entrance and roadway improvement requirements including expediting and contributing to the cost of the Route 1-Cave Neck Road grade separated interchange which is a roadway improvement supported by DelDOT. This will result in improved vehicular movement and safety at that intersection.
10. This preliminary approval is subject to the following:
 - A. There shall be no more than 135 lots within the subdivision.
 - B. The developer shall establish a homeowner's association responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - D. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. This buffer shall increase to 50 feet in areas where the development borders any lands in agricultural use. The Final Site Plan shall contain a landscaped plan for all of these areas.
 - E. The development shall comply with all DelDOT entrance and roadway improvement requirements including contributions to the cost of the Route 1-Cave Neck Road grade separated interchange.
 - F. The subdivision shall be served by a central sewer service.
 - G. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - H. The roadway designated as "Cave Neck Road" connecting this subdivision to Route 1 shall be built to State specifications to be assumed by the State of Delaware for future maintenance and shall allow for interconnectivity with the parcels on either side of the roadway. The remainder of the street design shall meet or exceed Sussex County standards.
 - I. The development shall be served by its own on-site active amenities such as a pool and clubhouse. As stated by the Applicant, the clubhouse shall be at least 2,400 square feet in size, and the pool shall be at least 1,500 square feet in size.
 - J. The developer shall complete all amenities prior to the issuance of the 70th residential building permit.

- K. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- L. As stated by the Applicant, sidewalks shall be installed on both sides of all internal streets in the development.
- M. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
- N. The Final Site Plan shall indicate all forested area that will be preserved.
- O. The Final Site Plan, the Restrictive Covenants and all deeds to the lots shall contain the legal notice that lands adjacent to this development are used for agricultural purposes within an Agricultural Preservation District. That notice, in the form and substance required by State law and County Code, will advise future owners of the nearby agricultural uses which may create noise, odors, dust, and other activities associated with agricultural use and production.
- P. A revised Preliminary Site Plan with depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- Q. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to grant Preliminary approval for the reasons and conditions stated. Motion carried 5-0.

Ord. # 18-10 – Forested Landscape Buffer

An Ordinance to amend Chapter 99, Article I and III, Sections 99-5 and 99-16 of the Code of Sussex County relating to forested and/or landscaped buffers.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial in its current form and make a recommendation that County Council take into consideration lot sizes, property sizes, landscaping that is already in place, agricultural areas, environmental issues, consider a study group or a workshop with the Stake Holders to take a look at existing vegetation, existing topographical, landmarks, size of the parcel for the reasons stated.

Motion carried. 5-0.

2018-11 Hawthorne Phase 6 – Rob the Ranger, LLC

A cluster subdivision to divide 28.05 acres +/- into 41 single family lots to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County. The property is lying on the north side of Lewes-Georgetown Hwy. (Rt. 9), approximately 1,985 ft. east of Gravel Hill Rd. (Rt. 30). Tax Parcel: 135-11.00-66.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since August 23, 2018.

Ms. Stevenson moved that the Commission grant preliminary approval for Subdivision 2018-11 for Hawthorne Phase 6-Rob the Ranger, LLC based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of 41 additional lots within the existing Hawthorne Subdivision. These new lots are located on what was previously set aside as a wastewater disposal area that is no longer needed.
2. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet. These lots are consistent with the existing lots in Hawthorne.
3. The additional 41 lots still result in an overall density of 1.91 units per acre, which is less than the maximum density permitted in the AR-1 zone.
4. There will be a significant area of existing trees that will remain as part of the proposed 41 lot expansion.
5. The Applicant has stated that 100% of the existing lot owners in Hawthorne have approved this expansion.
6. This expansion of the existing cluster subdivision on this site will not have an adverse impact on the neighboring properties or area roadways.
7. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has favorably addressed the requirements of Section 99-9C of the Code.
8. The additional 41 lots will be served by central water and sewer.
9. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
10. This preliminary approval is subject to the following:
 - A. There shall be no more than 41 lots within the Hawthorne subdivision, for a total of 254 lots.
 - B. The lot owners shall be members of the existing HOA responsible for the maintenance for streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - D. The developer shall preserve the forested area running behind the clubhouse and between the stormwater management areas and lot 217 through 252. This undisturbed forested area shall be clearly shown on the Final Site Plan, and it shall not be disturbed during construction, other than minor cleanup or removal of underbrush.
 - E. A forest or landscaped buffer of at least 50 feet in depth shall be installed along the outer boundary of these new lots. This buffer area may include existing vegetation. The Final Site Plan shall contain a landscaped plan for these areas.
 - F. There is currently a construction entrance between the Hawthorne development and Prettyman Road. The developer shall continue to use that entrance for construction vehicles and shall coordinate with the landowner of the parcel it crosses in an effort to make the entrance a permanent one providing vehicular and pedestrian access between Hawthorne and Prettyman Road as well as interconnectivity with parcel 235-28.00-25.00 if it is ever developed.
 - G. All of the conditions governing Subdivision 2005-73 for the existing 213 approved lots in Hawthorne that are not affected by this preliminary approval shall apply.
 - H. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hudson and carried unanimously to grant Preliminary approval for the reasons and conditions stated. Motion carried 5-0.

C/U #2139 Arctec Properties, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential Zoning District for a storage warehouse for small contractors to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 4.74 acres, more or less. The property is lying on the west side of Sussex Highway. (Rt. 13), approximately 0.75 mile north of East Newton Road. 911 address: 14906 and 14910 Sussex Highway., Bridgeville. Tax parcel: 530-17.00-10.00.

The Planning Commission discussed the application which has been deferred since August 23, 2018.

Mr. Hopkins moved that the Commission recommend approval of CU# 2139 for Arctec Properties, LLC for a storage warehouse for small contractors based upon the record made during the public hearing and for the following reasons:

1. The site was previously approved for a multi-unit warehouse for small contractors in 2007 as Conditional Use #1693 and Ordinance #1918. That prior approval was for a larger building than what is proposed with this application.
2. The site is located along Route 13, which is a main arterial highway in Sussex County. This use is appropriate for this location.
3. The use is situated on a 4.74 parcel of land. It is situated among other larger parcels of land. There are other businesses and structures in the area with similar characteristics and uses to what is proposed by the Applicant. This use is compatible with the surroundings.
4. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.
5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 13 that is convenient for small businesses operated in the County.
6. The applicant has stated that he is generally agreeable to the conditions that were imposed by Conditional Use #1693 and Ordinance #1918, with some minor modifications.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
 - A. The project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats, RV's or equipment within the site.
 - B. There shall be no retail sales from the property.
 - C. No vehicle repair or fueling operations shall be performed on site.
 - D. There shall be no manufacturing on the site.
 - E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - F. Any dumpsters on the site are to be screened from the view of the neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - G. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - H. The parking area may be crusher run and there shall be an adequate area for all tenants

and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. In addition, any vehicles parked overnight shall be located on the west end of the block building located on the site.

- I. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
- J. As required by Conditional Use #1693 and Ordinance #1918, there shall be a vegetated buffer along the northern side of the site. The buffer shall be shown on the Final Site Plan.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and with the stipulations stated. Motion carried 5-0.

C/U #2140 Santay Trucking c/o Samuel Connors

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential Zoning District for a trucking business, landscape and material storage to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 5.0 acres, more or less. The property is lying on the west side of Dupont Boulevard. (Rt. 113) approximately 0.5 mile south of VFW Road. 911 address: 14292 Dupont Boulevard, Ellendale. Tax parcels: 230-31.00-27.00, 27.01 and 27.02

The Planning Commission discussed the application which has been deferred since August 23, 2018.

Mr. Hopkins moved that the Commission recommend approval of CU# 2140 for Santay Trucking c/o Samuel Connors for a trucking business with material and landscape storage based upon the record made during the public hearing and for the following reasons:

1. This site has been used for trucking and related operation for decades- most likely preceding the Sussex County Zoning Code. This application has also owned and used the property for trucking operation for years.
2. Because there is not currently a formal zoning approval for the use, the applicant is seeking this conditional use to confirm the longstanding and grandfathered use of the property for trucking and related operations.
3. DelDOT has historically recognized the existing use of the site through the construction of a commercial entrance and a crossover in the median of Route 113. DelDOT has no objection to the continued use of the site for trucking and related purposes.
4. The site is surrounded by wooded properties owned by the State of Delaware. The continued use of the site for trucking and storage areas will not interfere with these adjoining properties.
5. The continued use of the property for trucking and related activities will not adversely affect traffic or area roadways.
6. The applicant has no plans to materially expand the use on the property or construct additional buildings beyond what currently exists on the site.
7. The applicant does not want a sign for the property, and no retail sales or similar uses will occur from the property.

8. It is appropriate to approve this conditional use application to confirm the grandfathered, legal use of the property for trucking and landscape and material storage.
9. Because this is a grandfathered, limited use of the property, it is not necessary to require a lot of conditions. So, this recommendation is subject to the following limited conditions:
 - A. The use shall be limited to the type of trucking operation with landscape and material storage of the type that has occurred on the site for decades. This includes the existing structures on the site.
 - B. As stated by the Applicant, no sign was requested, so no sign is permitted.
 - C. As stated by the Applicant, no retail sales shall occur on the site.
 - D. All petroleum products, lubricants and similar fluids shall be properly stored and disposed of in accordance with all State and Federal requirements.
 - E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to forward this application to Sussex County Council with a recommendation that the application be approved for the reasons and with the stipulations stated. Motion carried 5-0.

C/Z #1855 Kirk Salvo, KH Sussex, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential Zoning District to a C-3 Heavy Commercial Zoning District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.51 acres, more or less. The property is located on the south side of John J. Williams Highway. (Rt. 24), approximately 954 ft. west of Angola Road., also being the southwest corner of John J. Williams Highway. (Rt. 24) and Angola Road, and being on the west side of Angola Road., approximately 250 ft. south of John J. Williams Highway. (Rt. 24). 911 address: N/A. Tax parcels: 234-11.00-56.09, 56.03, and 56.02.

The Planning Commission discussed the application which has been deferred since August 23, 2018.

Mr. Hudson moved that the Commission recommend approval of CZ# 1855 for KH Sussex, LLC for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.
2. The site is at the intersection of Angola Road and Route 24. This lighted intersection is appropriate for this type of zoning.
3. This location serves an area that has been significant residential growth. This rezoning will provide a convenient location for retail and service uses for nearby residential developments as well as Route 24 traffic.
4. Most of the site is currently used for commercial purposes. A Conditional Use for boat storage and other similar uses exists on the property. This rezoning is a reasonable expansion of the prior conditional use on this site.
5. The site will be served by central water and Sussex County Sewer.

6. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Land Use Plan. This type of commercial use serving nearby residential uses is appropriate in this Area according to the Plan.
7. The proposed C-3 Zoning at this site lessens the congestion on area roads by providing appropriate commercial activities at the Route 24 and Angola Road intersection so that residents and visitors to the area can meet some of their commercial needs without having to travel to Route 1 or Long Neck areas.
8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to forward this application to Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Ross described the procedures for public hearings before the Planning and Zoning Commission.

2018-12 Sand Hill Road Subdivision - Betty Black

A standard subdivision to divide 16.67 acres +/- into 8 single family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the west side of Sand Hill Road, approximately 1,835 ft. south of Donovan's Road Tax Parcel: 235-19.00-33.00. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, subdivision plan, comments from TAC, DelDOT, Sussex Conservation District, numerous Division of DNREC, Division of Public Health, Delaware Electric Co-op, Office of State Fire Marshal, NRCS, an approved Soil Feasibility Study, and a waiver from the forested landscape buffer.

The Commission found David Hutt Attorney with Morris, James, Wilson, Halbrook & Bayard, Joe Black, owner and Ken Christenbury with Axiom Engineering were present on behalf of the application; Mr. Hutt stated an exhibit booklet was submitted, that the property is located a long Sand Hill Road; that the application is to divide 16.67 acres into eight lots; that there is a lot line adjustment and reduces the area to 6.29 acres; that six and half acres are to be subdivided; that area of the rear of the property is being conveyed through a lot line adjustment to Pemberton Branch Properties; that there is a small area to the north which is also being conveyed to an adjacent property owner through a lot line adjustment; that the property is zoned AR-1; that too far south side, there is a 25 foot easement for agricultural access and the property is currently agricultural use by the farmer who owns the land immediately behind this site; that the farmer is using the eight acres of land; that since this is a farm access, that they will not be able to have further residential subdivision of the property behind it because the farm access is only 25 feet wide and the County requires 50 feet access; that the lots meet all requirements of an AR-1 subdivision; that there are not any new streets or roads to be created; that there are no wetlands on any of the lots; that

DelDOT did not require a traffic impact study; that each site will have its own well and on-site septic system; that the access to the eight lots will be off Sand Hill Road with four shared driveways; that there is a draft of restrictive covenants that was submitted; that they are requesting a waiver from the 20 foot forested buffer requirement; that there will be no homeowner association to take care of the agricultural buffer; that there cannot be a structure within 50 feet of the boundary of the agricultural border; that the setback line envelope to include the 50 foot agricultural buffer for structures that require certificate of occupancy; that this a typical AR-1 strip lot subdivision; that Mr. Christenbury stated the three lots were subdivided previously; that the rear lot of the three lot subdivision has ask to purchase a strip; and that the strip is being purchased by the last lot owner.

The Commission found that no one spoke in favor or in opposition to the application. The public hearing was closed.

At the conclusion of the public hearings, the Commission discussed this application.

Ms. Stevenson moved that the Commission grant preliminary approval for Subdivision 2018-12 for Sand Hill Road Subdivision – Betty Black based upon the record made during the public hearing and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 8 lots on 16.67 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 8 new lots with residual.
 - B. All entrances shall comply with all of DelDOT's requirements.
 - C. The Sussex Conservation District shall review and approve the drainage and stormwater management system on the property.
 - D. A waiver of the buffer requirements for this 8 lot subdivision is appropriate.
 - E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to Preliminary approval for the reasons and conditions stated. Motion carried 5-0.

2018-13 Anchors Run – Insight Development Company, LLC

A cluster subdivision to divide 132.71 acres +/- into 265 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The properties are on the east side of Beaver Dam Road, approximately 500 ft. south of Hopkins Road and across from Stockley Road Tax Parcels: 234-6.00-19.00 and 20.01. Zoning District. AR-1 (Agricultural

Residential District).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, subdivision plan, comments TAC, from Sussex Conservation District, numerous other agencies, and PLUS. Five letters in opposition to the application were into the record.

The Commission found Tim Willard Attorney with Fuqua, Willard & Schab, Jack Hayes with Insight Homes, Rock Parker, Engineer with Parker and Associates and Betty Tustin with the Traffic Group on behalf of the application; that Mr. Willard stated an exhibit booklet was submitted; that the application is for a proposed cluster subdivision that will be called Anchors Run; that property is located on the east side of Beaver Dam Road; that there is single family and agricultural use in the area; that the property wraps around eight residential parcels; that the property is approximately 132 acres; that the property is currently farm land and that there is currently 31.5 acres of woods; that they are going to designate the forest area as a forest area; that they will keep all the forested buffers; that where there is no forested buffers, they will plant them; that site is in compliance with the AR-1 cluster subdivision limitation; that the development will comprise of 265 single family lots and a recreational amenities; that the land is a combination of two adjacent parcels of 62.9 acres and 68.6 acres; that the minimal lot size will be 7,500 square feet and the average lot size is 8,750 square feet; that the overall density is 1.99 lots per acres; that there will a 20 foot landscape buffer on all lots and additional 20 foot forested landscape buffer to the exterior of the property that is adjacent to the property; that there was an error in the site plan; that where is shows the buffer and two 20 foot buffers, it shows the forested buffer as the interior buffer instead of the exterior buffer; that inside of that 20 foot buffer will be a 20 foot landscape buffer; that there is an additional 10 foot easement area that will probably be a landscape swale; that the adjacent properties will have 60 foot buffer; that the closet lot line on Beaver Dam Road right of way, will be 180 feet; that approximately 65 acres of the site will be open space, which is 49%; that most of the lots are adjacent to some form of open space; that there will be a centrally located recreational area, containing approximately 21 acres of open space; that the proposed subdivision will have central water and fire protection by Tidewater Utilities; that the central sewer will be provided by Artesian Wastewater Services with an existing agreement with Sussex County Public Works; that the site is not in an existing Sussex County sewer district but in the north coastal planning area; that there is an existing problem with the spray field immediately to the north of the site; that the applicant will design a sewer plan that will include a pump station to the northern part of the site; that will provide connection for the development to the north and into Artesian system and will resolve the existing problem; that stormwater management facilities will be designated and constructed accordance with DNREC regulations and will be reviewed and approved by the Sussex Soil Conservation; that the facilities will utilize Best Management Practices; that there a small nontidal wetlands located to the southeasterly portion of the property line containing 1.55 acres; that the area will not be developed and is surrounded by existing woods; that it is 233 feet from the closet lot line; that the site is not in a floodplain area; that the site is in the Cape Henlopen School District; that the fire service will be provided by the Lewes and Rehoboth Beach Fire Companies; that DelDOT will require improvements to Beaver Dam Road; that the TIS was reviewed and approved by McCormick Taylor on behalf of DelDOT; that the applicant will approve Beaver Dam Road from the southern limit to Hopkins Road just north of the site; that there will be two entrances to the development; that the northern site on Beaver Dam Road will be designed and constructed a three lane, single lane roundabout; that the southern Beaver Dam Road access will be a four lane, single lane roundabout, that includes reline Stockley Road as the force

line; that the applicant will also be required to contribute equitable shares determined by DelDOT; that improves to Beaver Dam Road and Hollymount Road intersection; that the intersection is part of DelDOT study; that those improvements will be determined by DelDOT; that the applicant will be required to enter into a single agreement with DelDOT for Delaware Route 5, Hollyville Road and Hollymount Road intersections; that the plan there is revert an existing flashing traffic light to a fully operating signal; that in addition the applicant will dedicate frontage on Beaver Dam Road to create a 40 foot right-of-way from the center line; that they will grant a 15 foot easement from the edge of the right-of-way and construct 10 foot wide shared use path, with a minimum 5 foot buffer from the roadway; that all improvements will make an appropriate accommodations to bicyclist, pedestrians and will be ADA compliant; that the recreational center amenities will include an outdoor swimming pool, large deck area, a community building with a bath house, exercise room, meeting rooms, and et.; that the minimum recreational building will be 3,500 square feet and there will also be pocket parks throughout the community and walking trails; that the timing for the completion of the recreational center amenities will be addressed in the requested conditions of approval and recommended completion by the 100th unit; that this will be a community energy neutral project; that they are willing to providing interconnectivity to the Oakwood Community and Oakwood Community does not want interconnectivity; that are providing connectivity in the rear of the property with a gravel road and can handle large fire trucks; that the Beaver Dam Road frontage will be landscaped, contain stormwater management ponds creating an attractive open vista; that the subdivision will be developed in four phases and they are proposing the amenities will be required to be completed prior to the issuance of the 100th building permit; that Mr. Parker stated the water on the currently follows in four different directions; that in the post development they will be capturing 100% of their limited disturbance; that each of the ponds will be linked together that they will eventually out fall into a single out fall that will run down to the southerly entrance, down Stockley Road and will tie into Branch Creek; that the ponds are lined with plastic liners with clay in between; that the three adjoining projects, what is going from to them within the limited disturbance will be captured, routed and discharge elsewhere; that any water going to any of these projects will be reduce to zero; that the design will not change; that they actually have a 15 foot wide bench at the top and behind the lots; that the lots end and they have a 15 foot flat area at the top of the pond and it is all community property; that Ms. Tustin stated that DelDOT proposed roundabouts for the two entrances; that roundabouts are a popular item to be used all cross the country; that the roundabouts are low maintenance and much safer than an unsignalized intersection or an signalized intersection; that the roundabouts can handle a fire truck and track trailers; that Stockley Road will be aligned slightly to the north and will be one of the legs of that roundabout and will have a four led roundabout; that the one to north will be completely on the right-of-way and will be a three leg roundabout; that Mr. Willard stated to propose some conditions; that the stormwater management will meet or exceed the requirements and be constructed and maintained using Best Management Practices; that the streets lights will be downward screened; and that there will be sidewalks.

The Commission found that no one spoke in favor of the application.

The Commission found that Dean Betts, Claudia Barnes, Regina Willboughy, Katie Rappold spoke in opposition to the application; that Mr. Betts stated he is speaking on behalf of several of the residents of Beaver Dam Acres; that a letter was submitted by the residents of Beaver Dam Acres; that there was 25 signatures and they all are effected by the proposed project; that there are issues of regarding the construction of existing forest land and issues with sumps or ponds contained in

the area; that within that existing forest, the stormwater management and till water management was not addressed in the proposed plan; that an error in calculating the number of units aloud in a cluster development; that the State had opposition to this development as it is located in a Level 4 area; that they attended a meeting with Mr. Hayes and was able to obtain some helpful information; that they discussed the feasibility of restricting the clearing of the existing forested area; that they recommend condition for a Conservation easement on the existing forested area; that they became aware that the Preliminary Site Plan had a topographical error regarding the proposed 40 foot buffer and in identifying the landscape buffer verses the forested buffer were in correctly positioned on the plan; that they were told the forested buffer will be directly adjacent to Beaver Dam Acres property lines; that the stormwater management is acceptable to them; that they would reject any further plan than what is presently proposed; that they find the roundabouts at the entrances of the proposed subdivision to be acceptable; that they will minimize light pollution to the adjoining neighborhood; that they have concerns with the additional water issues that the development of this land could bring to their development; that Ms. Barnes stated she has concerns about water; that she has concern with the wildlife; that how is the privacy issue going to be addressed; that Ms. Willboughy stated she does not think a new development should fix another development problems; that the two roundabouts on a busy road will be unsafe; that Ms. Rappold stated she has concerns with stormwater; that she has concerns with the cut through; that they reconsider the cut through and does not need to be there; that

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2143 Tri Gas & Oil Co. Inc.

An Ordinance to Grant a Conditional Use of land in a C-1 General Commercial District for a petroleum fuel storage and office facility to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 1.9475 Acres, more or less. The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 766 ft. south of Wilson Hill Road. 911 Address: 20205 DuPont Boulevard, Georgetown. Tax Parcels: 135-14.00-66.10 and 135-14.00-66.07 (portion of).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, staff analysis, results of the DelDOT Service Level Evaluation and other agency comments.

The Commission found Shannon Carmean Burton, attorney with Sergovic Carmean Weidman McCartney & Owen, P.A., Nash McMahan owner of Tri Gas & Oil Co., and Michael Kobin, with GMB were present on behalf of the application; that Mrs. Carmean Burton stated the area is approximately 1.95 acres; that the area is currently approved with two fuel storage tanks with a small storage building per CU 1080 approved in 1994; that the business is a family owned company in business over 60 years; that they provide the area with residential and commercial products; that the parcel was acquired in 1995 for the use; that there is a sales office in another location and would like to combine the uses; that they purchased a portion of the land (.0944 ac.) from the adjacent parcel and have been combined with the parcel; that there are two components to the site; that the front of the parcel will be the public facing portion with gas pumps and the storage building; that the rear of the site would be the business operation; that the two existing tanks would

be relocated to the rear and have additional propane tanks along with work vehicles; that there would be one entrance to the site for all uses; that the rear portion of the site would be fenced; that the entrance will meet DelDOT standards; that they will provide 22 parking spaces exceeding the 16 required; that the site is zoned C-1; that the C-1 district is to provide regional and local uses along a major roadway; that the use is along a major roadway; that there are other commercial uses in the area; that the use is of a semi-public character and provides needs of the community; that the use is consistent with the Comp Plan; that the land use is Highway Commercial Area and Developing Areas; that the Highway Commercial land use encourages commercial uses; that the Comp Plan indicates that a mixture of uses is appropriate; that it is in State Strategy Level 1; that the use is to expand the existing use of the site; that the request will not be detrimental to the area; that a TIS was not required; that the majority of the area is zoned C-1; that a neighbor submitted a letter in support of the application; that there will be a security fence on the site; that there will be appropriate lighting for security; that the application is in keeping with the uses in the area; and that the sign will comply with the C-1 sign regulations.

The Commission found no one spoke in favor or opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U # 2152 Charles Auman

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to a condition of approval of Conditional Use no. 1771 (Ordinance 2056) and Conditional Use no. 2020 (Ordinance 2410) to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 8.93 acres, more or less. The property is located on the west side of Marshall Street Ext. and south of Swain's Private Road approximately 570 ft. west of Marshall Street Ext. 911 Address: 7158 Marshall Street, Lincoln. Tax Parcels: 330-11.17-20.00 & 330-15.05-6.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, and the written request to allow for a change in a condition of approval to allow for an electronic message center sign.

The Commission found that Charles Auman, owner was present of behalf of the application; that Mr. Auman stated that he is asking for an amendment to his conditional use to allow for digital sign instead of a changeable copy sign; that the sign is 4'x5'; that the sign is not 32 SF as is permitted per his conditional use; that he wants a more modern sign for his site; that he does not currently have a sign; that the sign can be programed to comply with Code regarding lighting, timing, etc.; that it will be easier than changing the letters on the sign; that there was discussion that the sign about requirements of lighting, timing, and brightness; that the Commission may condition the hours the sign in used to not impact the neighbors during the night; that the houses in the area are set back further than the office; that the sign will not be as bright as the streetlights on the road; that the sign would be along Marshall St.; that he is looking to use the sign to state the hours, specials, etc.; that there are trees and fences in the area to provide protection; and that the sign will be perpendicular to the road.

The Commission found that no one spoke in favor or opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/Z #1857 Elisabeth Ann Burkhardt

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.3673 acre, more or less. The property is lying on the on the southwest corner of Savannah Road and Woodland Road 911 Address: 1500 Savannah Road, Lewes. Tax Parcel: 335-8.18-28.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, results of the DelDOT Service Level Evaluation Request and site plan.

The Commission found Christin Calsen, attorney with Hudson Jones Jaywork and Fisher, and Mr. Wright, realtor were present on behalf of the application; that Elizabeth Burkhardt ran a professional office out of the house for over 30 years; that after she passed away her daughter converted it back to a residence; that her daughter can no longer care for the property and is looking to sell the property to pay for her medical care; that Kathy Madden is a social worker and is looking to use the property for her practice; that they are requesting B-2: that the purpose of the district for small office uses to serve the area; that B-2 should be located near rural areas or low density residential neighborhoods; that the area consists of low density residential developments including the development across the street; that there are commercial uses in the area; that the social work will benefit the community; that she is relocating the practice to Savannah Rd. from Lewes; that there is no intention to do more than the existing use; that the proposed zoning is appropriate for the area that it is in; that there is a community across the street; that there is a medical office adjacent to the parcel; that the other adjacent parcel is a residence; that they are looking to reuse the existing building with one additional parking space; that there will only be one patient at a time; that the B-2 zoning will bring office or services to the area; that the uses will serve the general welfare and needs of the area; there was discussion of the commercial uses along Savannah Rd. and the uses and size of the building permitted in the B-2 zone; that there have been a number of Conditional Uses along the road for offices; that there are a number of permitted uses within the B-2 district; that the use can change if the rezoning is approved; and that there are no restrictive covenants on the property.

The Commission found that no one spoke in favor or opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application. The Commission discussed the Conditional Use versus the Change of Zone along Savannah Road.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to defer action for further consideration. Motion carried 5-0.

Ord. # 18-11 – Permitted Densities

An Ordinance to amend Chapter 115, Article III, Article IV and Article XXV of the Sussex County Code in relation to the calculation of permitted density.

Ms. Cornwell introduced the Ordinance and explained that staff have prepared a memo in relation to the background for the Ordinance; that it [the Ordinance] was introduced at the request of Councilman Burton; that the Ordinance determines how density is calculated for a proposed development; that the Ordinance seeks to eliminate the ability to count wetlands when calculating the overall density of a proposed subdivision; that staff were not taking a position on the matter.

Ms. Cornwell presented examples of previous subdivision applications to the Commission, and illustrated how the Ordinance, if approved, would reduce the total number of units permitted on those sites.

Mr. Hudson asked for clarification on how densities are currently calculated for a parcel.

Mr. Robertson explained that, currently in the AR-1 Zoning District, the max density is approximately double the site area.

Mr. Wheatley commented that there are often cases where the maximum base density is not achievable due to limitations of the site, such as the need to provide open space, and other design considerations, such as the inability to build upon wetlands.

Mr. Hudson asked for an estimate to be provided of the reduction in units/value of a site that would result from the Ordinance; he suggested that this might be 20-30%. Ms. Cornwell commented that the specific example being discussed was 13%. Mr. Robertson pointed out that it was a reduction of 13% from the maximum possible density. Ms. Cornwell commented that the specific example being discussed was zoned AR-1 (Agricultural Residential Zoning District).

Mr. Wheatley commented that the definition of wetlands has changed over time. Mr. Hudson commented that the Ordinance changed the calculation from Gross Area to Net Area. Mr. Robertson confirmed that the Ordinance focused on wetlands as defined in Chapter 193 of the Sussex County Code.

Mr. Wheatley explained the procedures for people wishing to speak before the Commission.

The Commission found Mr. Chris Basin, the Executive Director for the Centre for the Inland Bays was present; that the Centre established a comprehensive management plan for the Bays within Sussex County; that this includes the waters within the bays and degraded habitats; that the Ordinance would prevent concentration of development near to ecologically sensitive lands and waterways such as those of the inland bays; that the Ordinance would reduce the risk of exposure of residents to hazards such as flooding; that wetlands are essential for the fish and wildlife populations of the bays; this includes fish and shellfish within the bays; that wetlands have a high concentration of rare species of plants; that the beneficial quality of wetlands have been declining over time; that they are in poor health due to disturbances including, but not limited to, development; that 32% of wetlands have been lost already; that this Ordinance would help to protect wetlands in numerous ways; that salt marshes in particular would benefit from this

particular Ordinance; that less density and more open space would allow wetlands to migrate inland; that this reduces the impacts associated with intense precipitation events and flooding; and that intense precipitation events are increasing over time.

Ms. Cornwell commented that eight letters of support had been received from members of the public and these are part of the record.

The Commission found that Ms. Jan O'Mears was present; that she supported the Ordinance; that the objectives within the Ordinance were reasonable and responsible; that the Ordinance aligns with other changes to County Code, such as the recent changes to commercial zoning; and that it makes sense to modernize the Code.

The Commission found that Mr. Jim McCulley was present, that he is the President of the Homebuilder's Association of Delaware; that he thinks that the Ordinance is a bad idea; that it would lead to the destruction of thousands of acres of natural resources; that they have tremendous value to the public, that they have limited value to the landowner; that he has experienced situations whereby landowners may seek to remove natural resources, such as trees, where they may limit potential future development; that there should be an incentive to keep natural features on a property; such as density bonuses where environmental resources are protected; otherwise the number of units lost would be developed elsewhere; and that sprawl would be increased.

The Commission found that Mr. Robert Murphy was present; that he believes that the Commission should consider future smart growth; and that the proposed Ordinance was an example of smart growth, and that he supported it.

The Commission found that Mr. Ring Lardner was present; that he was speaking on behalf of the Delaware Chapter of the American Council of Engineering Companies (ACEC); that density has been an issue for many years; that the base density of AR-1 lands was 2.178 DU/AC, that gross acreage is the total amount of land that you start with, that net acreage is the amount remaining after wetlands are discounted; that developers can purchase additional bonus density in the ESDDOZ; that the Ordinance would result in sprawl due to lots being located on other sites; that the County does not have the infrastructure to support the growth; that Kent County includes wetlands and uses gross density for calculating density; that they use 3 DU/AC in their growth area; that Newcastle County uses both gross and net density; that the clauses within the Ordinance do not explain the overall objective; and that the ACEC requests a working group to be formed to enable professionals and residents to continue to discuss the Ordinance.

The Commission found that Mr. Bob Thornton, State Director for the Home Builders Association, was present; that he stated that there are approximately 260-270,000 developable acres remaining in the County, that a reduction of 20-30% of the development would result in a takings case; that it would reduce house building in the County; that building is the way of the County, that other jurisdictions have tried similar protection measures; that billions of dollars would effectively be wiped out; and that other experts should look into the Ordinance.

The Commission found that Mr. Dave Carey was present; that he farms within the County; that the wetlands have value to farmers in addition to providing other valuable functions; that the Ordinance diminishes his property value; that the Ordinance would result in sprawl; that he

believes that landowners should be compensated for their whole property and not part of it; and that he requests Sussex County to consider the formation of a working group.

The Commission found that Mr. Frank Kea, Principal and Land Developer with Solutions was present; that the Ordinance would result in sprawl; that wetlands are already preserved; that the effect of sprawl would require longer pipes, longer streets and more trips throughout the County; and that the impacts of this would be a considerable negative consequence of the Ordinance.

The Commission found that Mr. Bobby Horsey was present; that he opposed the Ordinance; that he believes that it is a violation of his property rights; that landowners have invested in the County and developed sweat equity; that the designation of 2 DU/AC was established in 1970; that this doesn't need to change; that the market should dictate what is placed on a property; that the permitted density is often not utilized; that the Ordinance would result in a takings case against the County; that the Ordinance would result in increased sprawl; and that representations were made during the drafting of the Comprehensive Plan as to the need to protect densities.

The Commission found that Mr. James H. Baxter IV was present; that he has previously spoken with Mr. Burton on behalf of 2,000 farmers, that he believes that the Ordinance appears to be an equity snatching; that Sussex County is a very viable business due to the large numbers of people wishing to live in the County; that the Ordinance would take away his equity in his land; that this reduces the value of his property; and that half to three quarters of some properties could be reduced to no value for the purposes of obtaining loans for farming purposes.

The Commission found that Mr. James Lebello was present; that he believes that the proposal makes sense; that most things in society are based on net calculations; such as a resident's pay; this is calculated with gross and net; that the Ordinance is similar; that the Ordinance protects land and reduces development; that water quality would be protected; that fish are dying in Indian River Bay; that non-tidal wetlands are not protected; and that the Ordinance makes a lot of common sense and ties together with the Comprehensive Plan.

The Commission found that Mr. Michael Johnson was present; that he previously served the Commission for over 11 years; that in his experience there were subdivisions where multiple subdivisions were considered that contained wetlands; that he believed that wetlands could be utilized to maximize densities on certain parcels; that some parcels contain very large areas of wetlands; that some contain up to 40% of the total areas as wetlands; and that he is a supporter of growth and the increase in residents within the County.

The Commission found that Mr. Wayne Baker was present; that he is lifelong resident of the County; that he owns farmland within the County; that losing the value of wetlands would result in a loss of equity for farmers; that this would affect the livelihood of future generations; that this would result in a major lawsuit against the County; that the Ordinance only penalizes owners of undeveloped land; and that he would request the Commission to oppose the Ordinance.

The Commission discussed the proposed Ordinance.

Ms. Hoey-Stevenson commented that the hearing was being held during harvest season. Mr. Wheatley commented that a further meeting would allow for further discussion by interested

parties. Ms. Hoey-Stevenson suggested that the record is left open if the public hearing were to be continued at a future meeting of the Planning & Zoning Commission.

Motion by Ms. Hoey-Stevenson to defer action on Ordinance #18-11 until the next regular meeting of the Planning & Zoning Commission (September 27, 2018), with the public hearing left open to enable the submission of additional written comments and the submission of additional verbal comments during the continuation of the public hearing, seconded by Mr. Hudson. Motion carried 5-0.

OTHER BUSINESS

Peninsula on Indian River Bay a.k.a “Sailside” Phase 1C

Final Site Plan

This is a Final Site Plan for the construction of 60 units comprising of 50 single-family condo units and 10 townhouse condo units as part of a Residential Planned Community (RPC). Final Site Plan approval was previously given on December 19, 2007 for an alternative Site Plan as Part of Phase 1C that contained 15 larger multi-family buildings and no townhouses. A Revised Preliminary Site Plan was approved by the Commission at its meeting of November 16, 2017. Tax Parcel: 234-30.00-316.00. Zoning: MR-RPC (Medium Density Residential Planned Community). Staff are in receipt of all required agency approvals.

Motion by Mr. Hudson seconded by Mr. Hopkins and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

Saddle Ridge Amenities (S-18-52)

Final Site Plan

This is a Final Site Plan for a 2,665-sf. clubhouse, pool, playground, parking and other site improvements as part of the Saddle Ridge MR-RPC. The Final Site Plan complies with the Zoning Code. Staff are in receipt of all agency approvals. Tax Parcel: 334-18.00-40.00 Zoning: MR-RPC (Medium Residential District – Residential Planned Community).

Motion by Mr. Stevenson, seconded by Mr. Hudson and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

Angola Beach and Estates

Revised Final Site Plan

This is a Revised Final Site Plan to amend the layout of the Angola Beach development along Waterview Court and Marlin Court. The number of lots has been reduced from 54 lots to 42 lots. The 12 lots being removed from Waterview and Marlin Courts will be relocated within the development and will come back in front of Planning Commission for approval at a future meeting. All proposed reconfigured lots meet all requirements of the Sussex County Zoning Code. Tax Parcel: 234-18.00-1.00 Zoning: AR-1 (Agricultural Residential Zoning District). No agency approvals required.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the Revised Final Site Plan. Motion carried 5-0.

The Jefferson School

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for a new 14,940 sf. school building to contain one administrative office, seven classrooms, and a gymnasium as part of Conditional Use No. 1234. There is existing parking on the property as well as an existing school building. No additional parking is required. Tax Parcel: 135-10.00-16.00 Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Wingate seconded by Mr. Hopkins and carried unanimously to approve the Revised Preliminary Site Plan with final approval by the Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 11:00 p.m.